

United States Court of Appeals

For the Eighth Circuit

THE RECORD ON APPEAL

The record on appeal is defined in FRAP 10(a). There are four options available for preparing the record on appeal in all attorney-handled civil appeals. See 8th Cir. R. 30A(b); FRAP 10(d); 30. It may be used as a guide in criminal appeals, Tax Court appeals, and agency cases.

- 1. AGREED STATEMENT:** In lieu of an appendix, prepare according to FRAP 10(d); 8th Cir. R. 30A(b)(1).
- 2. JOINT APPENDIX:** Prepared according to FRAP 30(a) & (b); 8th Cir. R. 30A(b)(2). Appellant must file three copies of the appendix with the brief. For deferred appendix, see FRAP 30(c).
- 3. SEPARATE APPENDICES:** Parties may file separate appendices with their briefs. 8th Cir. R. 30A(b)(3). Appellees **may not** duplicate material contained in Appellant's appendix. Appendices must conform to FRAP 32(b).
- 4. SUPPLEMENTAL APPENDICES:** Parties may agree to submit additional materials not originally included in joint appendix. Absent an agreement, either party may file a motion for the court to direct the district court to transmit additional portions of the record.

EXCEPTIONS/VARIATIONS:

Civil Appeals with Appointed Counsel: Reappointed trial counsel prepares an appendix. Newly-appointed counsel designates the parts of the record for review on appeal, serves copies of the designation on both courts and opposing counsel; appellee counter designates; the district clerk prepares the record from the designations for filing with this court.

Agency Cases: The agency submits the entire record, certified list, or parts designated by the parties. See FRAP 17(b). Counsel may, by stipulation, supply omissions or correct misstatements. See FRAP 16(b). Counsel may include relevant portions of the agency record for review in an appendix. See 8th Cir. R. 30A(b)(4).

Social Security Cases: Three copies of the entire administrative agency record must be filed in addition to an appendix. 8th Cir. R. 30A(a)(1).

NUMBERS OF COPIES REQUIRED: Three copies of the appendix (regardless of the option chosen), indexed, and consecutively paginated, with white covers are required. See 8th Cir. R. 30A(b). Service is required. See FRAP 30(a)(3).

TRANSCRIPT AND EXHIBITS: Counsel must ensure timely transmission to this court by the district clerk. See FRAP 10(b); 8th Cir. R. 10A(a). Failure of appellant to provide the transcript may result in dismissal of the appeal. In civil cases, the transcript must be ordered within ten days of filing the notice of appeal. In criminal cases, counsel must arrange for transcript preparation when the notice of appeal is filed. The sentencing transcript must be provided in all criminal cases. In attorney-handled cases, where there are trial exhibits, appellant is responsible for ensuring they are forwarded to the court. See 8th Cir. R. 10A. For exclusions of physical evidence, see 8th Cir. R. 10A(b).